

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on March 26, 2001 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Jerry O'Neil (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 456, 3/22/2001; HB 324,
3/22/2001
Executive Action: HB 456; HB 324; HB 583; SB458

HEARING ON HB 456

Sponsor: REP. GAIL GUTSCHE, HD 66, MISSOULA

Proponents: Barbara Andreozzi, Montana Breast and Cervical
Health Program Advisory Council

Dick Paulsen, Helena
Lois Fitzpatrick, Helena
Beda Lovett, Montana Medical Association
Sami Butler, Montana Nurses Association
Kristin Nei, American Cancer Society
Jim Campbell, Montana Catholic Conference

Informational: Sue Miller, Montana Breast and Cervical Health Program

Opponents: None

Opening Statement by Sponsor:

REP. GAIL GUTSCHE, HD 66, MISSOULA introduced HB 456. She said this is an act that will provide Medicaid eligibility for individuals who have participated in the Montana Breast and Cervical Health Program, who will require treatment for breast or cervical cancer treatment, or both. The federal government will pay 80 percent, while the state will pay 20 percent, for those who are eligible. **REP. GUTSCHE** said there is a technical note, in the fiscal note, that states the request for funding in 2005 would be money from the Tobacco Trust Fund, and that might be unconstitutional. She said she does not believe it would be unconstitutional.

Proponents' Testimony:

Barbara Andreozzi, Montana Breast and Cervical Health Program Advisory Council (MBCHP) said they have 14 administrative sites across the state with 600 providers. All this information can be found in the briefing book **EXHIBIT (phs68a01)**.

Dick Paulsen, Helena said he had been the director of the MBCHP. He said getting treatment is a huge problem for these women. They are identified with the disease and then they cannot afford treatment. He asked the committee to support this bill.

Lois Fitzpatrick, Helena submitted a letter of testimony **EXHIBIT (phs68a02)**. She also passed out a packet of information **EXHIBIT (phs68a03)**.

Beda Lovett, Montana Medical Association said they are in support of this bill.

Sami Butler, Montana Nurses Association said it is unethical to screen people and then not be able to give them treatment. She said they were in support of this bill.

Kristin Nei, American Cancer Society said this bill makes good sense. She passed out some letters of testimony **EXHIBIT (phs68a04)**. She asked the committee to support HB 456.

Jim Campbell, Montana Catholic Conference said HB 456 offers a woman living in poverty, a chance for a modern day miracle. He asked the committee to support this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. CHRIS CHRISTIAENS asked to have the technical note explained. **Greg Petesch, Legislative Council**, said he believed the technical note on the fiscal note was faceless. All this is, is a directive from the Legislature to the Governor as to an item to be included in the budget.

SEN. JOHNSON asked why women over the age of 65 were not covered. **REP. GUTSCHE** said those women over 65 would be on Medicare and they would be covered.

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SEN. GRIMES asked about the program that funds the screening. **REP. GUTSCHE** said the MBCHP pays for the screening. This program has screened 2,500 women since 1996. A woman has to be at 200 percent of poverty to be eligible for this program. This bill will only cover the women who have been screened under MBCHP.

SEN. GRIMES asked if this would cover all women, who may find a symptom of cancer. **Ms. Nei** said this program only covers those who qualify for this national screening program. She said many times, physicians will screen patients to see if they would be eligible for this national screening program, if they are, the physician would recommend they apply.

Sue Miller, MBCHP, was an informational witness who passed out a copy of Health Care Financing Administration (HCFA) guidelines **EXHIBIT (phs68a05)**.

SEN. GRIMES asked are there any categories of women who could not take advantage of this bill. **Ms. Miller** said this program is intended to help those women who are at the highest risk of breast cancer. Women who are 50 years and older and are at 200 percent of poverty.

SEN. O'NEIL asked what does it cost for treatment. **Ms. Miller** said each year treatment costs approximately \$22,000 for breast cancer and \$16,000 for cervical cancer per person.

SEN. HARGROVE wondered if the Montana Comprehensive Healthcare Association would cover these women.

Closing by Sponsor:

REP. GUTSCHE said they are trying to help those under-served women - either they are under-insured or uninsured. She said this state law must be passed in order to utilize the federal act. If this bill is not passed, we cannot get the federal matching funds. She said she would appreciate this bill getting a favorable consideration.

HEARING ON HB 324

Sponsor: **REP. JEFF MANGAN, HD 45, GREAT FALLS**

Proponents: **Wendy Young, Working for Quality and Economic Liberation**
Ann Lynch, Montana Childcare Association
Susan Held, East Helena

Opponents: **Michelle O'Malley, Helena**
Kristin Ashton, Helena

Informational: **Becky Fleming-Siebenaler, DPHHS**
_____**Linda Fleming, DPHHS**
_____**Roy Kemp, DPHHS**

Opening Statement by Sponsor:

REP. JEFF MANGAN, HD 45, GREAT FALLS introduced HB 324. This bill would allow drop-in daycare centers become licensed. He said there were some misconceptions about this bill. It would allow drop-in daycare centers the option of being licensed, but it would not require that drop-in daycare centers be licensed. Some of the advantages of being licensed are the daycare centers would be eligible to get grants and also reimbursement for the food program. He said the licensure requirements have not yet been developed. The DPHHS will work with the drop-in daycare centers to determine the requirements. He passed out a copy of the daycare facilities survey **EXHIBIT (phs68a06)**.

Proponents' Testimony:

Wendy Young, Working for Quality and Economic Liberation said they organize low income families and stand in support of this bill.

Ann Lynch, Montana Childcare Association said if the drop-in daycare centers choose to be licensed, they would be eligible to work with subsidies that are available. She said she does not think the department wants to close down the drop-in daycare centers. They only want the children to have the safety and quality they need.

Susan Held, East Helena said she is the owner of a daycare center. She said by being registered, she was eligible for grants and technical assistance. She encouraged the committee to pass this bill for the benefit of the children.

Opponents' Testimony:

Michelle O'Malley, Helena said she owns a drop-in daycare. She is concerned about comparing quality with being licensed. She is a registered nurse and probably more qualified than many of the daycare providers. She was very concerned about the daycare provider ratio, with drop-in daycare it is very hard to plan. She said she cannot afford to pay a daycare provider and then not have any children to take care of.

Kristin Ashton, Helena said she owns a drop-in daycare center. She said she does not oppose this bill, but she is very concerned about the ratios. She said her biggest concern is what will the ratios be.

Informational Testimony:

SENATOR DUANE GRIMES asked about the childcare ratios and about record keeping. **Becky Fleming-Siebenaler, DPHHS** said she is the licensing supervisor for the Childcare Program. She said they will draft the rules for licensing drop-in daycare centers through a public process. She said the issues about ratios is something she would be looking at. She said maybe they would not have ratios, but would look at other health and safety concerns. She agreed these facilities are valuable and needed.

Linda Fleming, DPHHS said her department has several programs that are funded with block grant money. If these daycare centers were licensed, they would be eligible for start up costs and training. They could also participate in the food program, which reimburses daycare centers for serving nutritious meals. She said there is also a subsidized program, that helps low income parents pay for childcare.

Questions from Committee Members and Responses:

SEN. HARGROVE asked if it was going to be optional for drop-in daycare centers to be licensed. **Ms. Siebenaler** said originally it was intended all drop-in daycare centers be licensed, after some controversy, it was decided to make this optional.

SEN. HARGROVE asked why they use the number 13 as a guideline. **Ms. Siebenaler** said by state statute, a daycare center is defined as 13 or more children.

SEN. HARGROVE asked if this bill were not to be passed, could a drop-in center opt to be licensed. **Ms. Siebenaler** said they could, but they would have to follow the current regulations governing childcare centers.

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SEN. HARRINGTON asked what the department does if they receive a complaint about a daycare center. **Ms. Siebenaler** said they investigate and determine the corrective action that is needed. Then, they usually send a letter and the daycare center most always resolves the problem.

SEN. CHRISTIAENS asked about being eligible for subsidies. **Ms. Siebenaler** said when daycare centers are licensed, they become eligible for grants and other subsidies.

SEN. CHRISTIAENS said if you meet certain standards, is it to your advantage to be licensed. **Ms. Siebenaler** said that was correct. She added daycare centers are inspected twice a year to make sure they are meeting the standards.

SEN. CHRISTIAENS asked about daycare centers that are operating and are not licensed. **Ms. Siebenaler** said if they are operating illegally, they must come into compliance. The department can seek authority through the court and a daycare can be fined up to \$500.00 per day.

SEN. HARGROVE asked what the daycare ratios were. **Ms. Siebenaler** said the ratios are:

Age	Adult	Children
0-24 months	1	4
2 - 4 years	1	8
5 - 6 years	1	10
Over 6	1	14

SEN. GRIMES agreed it would be hard to estimate how many daycare providers would be needed in the drop-in daycare centers. He said he would hesitate to turn it over to rule, and have the same standards as full-time daycare centers. He asked **Ms. Siebenaler** to explore what other states do in regard to drop-in daycare centers.

SEN. GRIMES asked what kind of regulations would they propose pertaining to immunization records for drop-in daycare centers. **Ms. Siebenaler** said the parents would have to bring the records to the drop-in daycare center, in order to have their child at that center.

SEN. GRIMES thought there should be some "lag" time allowed for having immunization records at the drop-in daycare center.

SEN. O'NEIL asked if religious beliefs would allow children not to be immunized. **Ms. Siebenaler** said under current law, you are not exempted for religious beliefs.

SEN. GRIMES said he wanted to make sure the department worked with the various communities to come up with guidelines for the drop-in daycare centers. He felt they should not use the same set of standards that are used for full-time childcare centers.

REP. MANGAN said he would check on the rules about immunizations for daycare centers. He said he would work with **Ms. Fox** to draft an amendment.

Closing by Sponsor:

REP. MANGAN said there are certain records that need to be kept, such as, who is to be contacted in case of an emergency. He said he believed that drop-in daycare centers already do this. He felt there are more benefits that outweigh any negatives, by being licensed. He said if the department puts together rules that are so onerous, no one will want to get licensed. He appreciated the good hearing.

EXECUTIVE ACTION ON HB 456

Motion/Vote: **SEN. CHRISTIAENS** moved that **HB 456 BE CONCURRED IN.**
Motion carried 11-0.

SEN. FRANKLIN will carry this bill in the Senate.

EXECUTIVE ACTION ON HB 324

SEN. HARGROVE said that with the options of being licensed or not being licensed, it seemed to make this a rather senseless bill.

SEN. CHRISTIAENS said this bill will allow those folks who choose to be licensed, the ability to get grants and reimbursements from the nutrition program.

SEN. O'NEIL said he thought it was a very good bill. He felt it gives parents the choice of where they want to take their children.

Ms. Fox discussed the new amendment **EXHIBIT (phs68a07)**
SB032401.asf.

Motion/Vote: **SEN. GRIMES** moved that **HB 324 BE AMENDED. Motion carried 10-0.**

Roy Kemp, DPHHS said this bill had gone through some reincarnations in order to save it. He said **REP. MANGAN** agreed not to tie these drop-in daycare centers to the definitions of full-time daycare centers. **Mr. Kemp** said we need to address the nature of the business of drop-in daycare centers. He also said when this bill became voluntary, his department realized they would not be flooded with new applications and the work could be done with existing constraints.

Motion/Vote: **SEN. JOHNSON** moved **STRIKE SECTION 4 FROM HB 324. Motion carried 10-0.**

SEN. CHRISTIAENS said the thing that bothers him is the legislature mandates regulations, and then they do not want to fund them.

SEN. STONINGTON asked if these were fee-based licensing. **Mr. Kemp** said they cannot charge fees for daycare licensing.

Motion/Vote: **SEN. CHRISTIAENS** moved that **HB 324 BE CONCURRED IN AS AMENDED. Motion carried 8-2 with Hargrove and Johnson voting no.**

SEN. HARGROVE said he still does not see what this bill would do. He did say he realized it would open up the door for the daycare centers to get some benefits.

SEN. CHRISTIAENS will carry this bill in the Senate.

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EXECUTIVE ACTION ON HB 583

SEN. GRIMES, Chairman of the Subcommittee, explained the amendments **EXHIBIT**(phs68a08) **HB058302.asf**.

SEN. FRANKLIN said she still had concerns that an advanced directive could be a manipulative tool. She said she has tried to realize this only has to do with notification and does not have to do with treatment.

Vote: Motion that **HB 583 BE AMENDED** carried 10-1 with Johnson voting no. **SENATORS DEPRATU, HARRINGTON, AND STONINGTON** voted by proxy.

Motion: **SEN. GRIMES** moved that **HB 583 BE CONCURRED IN AS AMENDED**.

Discussion:

REP. ESP said the only time injunctive relief would be used is when families need to get an injunction to find out where the patient is being treated, or if the advanced directive had been revoked.

Bob Olsen said they had agreed to leave in the attorney fees. In two years they can see if this needs to be changed.

SEN. O'NEIL said as an advocate for patients, he would recommend it be left in the bill.

SEN. FRANKLIN said she was afraid we were losing sight of the reason for this bill.

Vote: Motion that **HB 583 BE CONCURRED IN AS AMENDED** carried 7-3 with Franklin, Hargrove, and Johnson voting no. **SENATORS DEPRATU, HARRINGTON, AND STONINGTON** voted by proxy.

SENATOR GRIMES will carry this bill in the Senate.

EXECUTIVE ACTION ON SB 458

Motion/Vote: **SEN. JOHNSON** moved **SB 458 BE TAKEN OFF THE TABLE**. Motion failed 2-8 with Christiaens and Johnson voting aye.

ADJOURNMENT

Adjournment: 5:25 P.M.

SEN. AL BISHOP, Chairman

JEANNE FORRESTER, Secretary

AB/JF

EXHIBIT (phs68aad)